

ROUTING AND TRANSMITTAL SLIP

DATE

11 Aug 87

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

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As Requested	For Correction	Prepare Reply
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REMARKS

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FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

EXA/DDA

Phone No.

5041-102

☆ U.S. GPO: 1986-491-247/40012

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
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DNA-16550-07

Information Security Oversight Office
Washington, DC 20405

OS REGISTRY

12 AUG 1987

August 4, 1987

Dear Mr. Donnelly:

The purpose of this letter is to bring to your attention two recent regulatory changes that impact upon the executive branch's information security program. You should communicate these changes as quickly as possible to all those officials and activities within your agency that will be affected by them. The first regulation, published in the Federal Register of July 29, 1987, concerns the minimum requirements for the storage of "Top Secret" information in locations outside the United States. The second regulation, published in the Federal Register of August 3, 1987, provides points of clarification concerning the Standard Form 189, "Classified Information Nondisclosure Agreement," and the Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)." We enclose further explanation or instruction concerning each of these regulatory changes along with a copy of the published rule. Please contact this office at (202) 535-7251, if you have any questions or problems concerning your implementation of them.

Sincerely,

Steven Garfinkel
Director

Mr. William F. Donnelly
Deputy Director for Administration
Central Intelligence Agency
Washington, DC 20505

Enclosures

APPENDIX A - ISOO LETTER DATED AUGUST 4, 1987:

**AMENDMENT TO ISOO DIRECTIVE NO. 1;
STORAGE OF "TOP SECRET" INFORMATION**

Section 2001.43 of the Information Security Oversight Office (ISOO) Directive No. 1, 32 CFR § 2001.43, has been amended to increase the minimum standard for the protection of "Top Secret" information stored outside the United States. The Director of ISOO alerted the senior agency official of each agency that creates or handles national security information of this pending change in a letter dated July 6, 1987. That letter, classified "Confidential," noted a perceived increased vulnerability that necessitated an enhancement of the storage requirement.

This change to ISOO Directive No. 1 is effective immediately. Agencies should complete implementation as quickly as possible. ISOO will review agency compliance with this provision in its future program inspections. Internal agency overseers should include compliance with this provision in their inspections also.

Wednesday
July 29, 1987

SECRET

Part II

**Information Security
Oversight Office**

32 CFR Part 2001

National Security Information; Final Rule

APPENDIX B - ISOO LETTER DATED AUGUST 4, 1987:

**SF 189: CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT;
SF 189-A: CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT
(INDUSTRIAL/COMMERCIAL/NON-GOVERNMENT)**

1. Recently, there have been a number of congressional inquiries regarding certain terms used in the Standard Form 189, "Classified Information Nondisclosure Agreement" (SF 189), and the Standard Form 189-A, "Classified Information Nondisclosure Agreement (Industrial/Commercial/Non-Government)" (SF 189-A). As a result of these inquiries, and the discussions that have followed them, the following actions have been or must be taken:

(a) On August 3, 1987, ISOO published a revised rule implementing the SF 189 and SF 189-A. Paragraph (h) of the rule, titled "Points of clarification," provides: (i) a definition of the term "classifiable information" as used in paragraph 1 of the SF 189; (ii) a definition of "indirect" unauthorized disclosure as used in paragraph 3 of the SF 189 and SF 189-A; (iii) a notation that paragraph 7 of the SF 189 refers to classified information exclusively; (iv) a notation that paragraph 7 of the SF 189 and SF 189-A refers to "classified materials which have or may come" into the possession of the signer of the form; and (v) a notation that the "Witness and Acceptance" statement on the SF 189 would be revised to read like the "Witness and Acceptance" statement on the SF 189-A.

(b) ISOO has agreed to amend paragraph (h)(1) of 32 CFR § 2001.20 to add the following sentence to the end thereof: "The term 'classifiable' does not include any information that is not otherwise required by statute or Executive order to be protected from unauthorized disclosure in the interest of national security." This change will be published in the Federal Register within the next few days.

(c) ISOO has agreed to initiate a new printing of the SF 189 and SF 189-A that will incorporate the changes listed in paragraphs (a) and (b), above, including the definitions of "classifiable information" and "indirect" unauthorized disclosure. In addition, paragraph 4 of the reprinted form will contain the following or similar language: "This Agreement does not supersede the provisions of 5 U.S.C. § 2302, which pertain to the protected disclosure of information by Government employees." This is a reference to the so-called "whistleblower" statute.

(d) Pending the issuance of the reprinted forms, the agencies shall:

(i) Continue to process the execution of the SF 189 and SF 189-A using the current edition. As noted in the revised rule, the points of clarification do not alter the substance of the agreements reflected in the current forms; are fully consistent with previous interpretations provided in response to individual inquiries; and apply to the interpretations of these particular provisions in existing versions as well as future reprints of the SF 189 and SF 189-A.

(ii) Offer anyone who has expressed concern or has objected to signing the current form the opportunity to sign it as modified by attaching a copy of the revised rule to it, and incorporating the revised rule by reference on the form itself. Also, the current form may be modified by incorporating the language regarding 5 U.S.C. § 2302, addressed in paragraph (b), above. For persons who have previously objected or refused to sign the current form, agencies should provide them a reasonable period of time to reconsider after advising them of the opportunity to modify the form as discussed in this paragraph. While ISOO will leave the imposition of a reasonable time frame to the discretion of the concerned agency head, it suggests that it should be no shorter than 10 additional days nor longer than 30 additional days from the day that the objecting employee is advised of the opportunity to sign a modified form.

(e) Upon the issuance of the reprinted form, agencies shall substitute its use for the current edition, notwithstanding the existence of remaining unused stock. Agencies shall then notify its employees who have already signed the SF 189 that they may elect to sign the reprinted version of the form and substitute it for the executed form on file. Notification does not have to be on an individual basis, but may be accomplished through general agency publications or notices that are available to all employees. ISOO will advise agencies of the availability of the revised SF 189 and SF 189-A.

2. Paragraph (g) of the revised rule has been amended to permit an authorized representative of a contractor, licensee, grantee, or other non-Government organization, acting as a designated agent of the United States, to both witness and accept the execution of the SF 189 or SF 189-A of another non-Government employee. Previously, non-Government personnel were authorized to witness the execution of the agreements, but not to accept them on behalf of the United States. This change is designed to facilitate the execution of the nondisclosure agreements throughout industry. For agencies operating under the Defense Industrial Security Program, this change will be reflected in the revised edition of the Industrial Security Manual that the Department of Defense will be issuing shortly. The Department of Justice has determined that this change will not be a significant impediment to the enforceability of the nondisclosure agreements.

Monday
August 3, 1987

Part IV

**Information Security
Oversight Office**

32 CFR Part 2003

**National Security Information; Standard
Forms; Final Rule**

DECLASSIFIED